



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/598,734 | 02/05/2007 | Karl Freudelsperger | 16785.8 | 9569 |
| 22913 | 7590 | 03/03/2010 | EXAMINER | |
| Workman Nydegger 1000 Eagle Gate Tower 60 East South Temple Salt Lake City, UT 84111 | | | WEEKS, GLORIA R | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3721 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 03/03/2010 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/598,734

Applicant(s)

FREUDELSPERGER, KARL

Examiner

GLORIA R. WEEKS

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 December 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-17 and 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-17 and 19-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This action is in response to the amendment and remarks received on December 10, 2009.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6-17, 19-21 and 24-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Siegel et al. (USPN 7,334,379).

In reference to claims 1-4, 6-17, 19-21 and 24-30, Siegel al. discloses a method and system for filling containers 45 with tablets, the system comprising: a reception means 12 (column 2 lines 38-41, 59-63; column 3 lines 18-33) ; a tablet dispensing station 80 including a plurality of tablet type automatic dispensers 82, 84, 86 each having a common magazine; allocation means (not shown) designed for determining from the data entered in the reception means the number of tablets of the respective types of tables to be allocated to a respective tablet container and the availability of the tablets (column 1 line 59-column 2 line 1, 31-49; column 4 lines 27-30); tablet container closing means 40; a tablet container filling system 32, 47 having structure to support an information carrier 32 and a tablet container conveyor 44; information carrier 32 including a bar-code and consumption instructions; an information carrier reader 42

that confirms supply of tablets in tablet dispenser prior to packaging/sealing of tablets in tablet container 83 (column 7 lines 4-6); a rejection station 43 that removes improperly filled tablet containers (removes all containers, including improperly filled containers); and an accumulation station 65, 88 that collects all tablets required to fill an order.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Siegel et al. (USPN 7,334,379) in view of Kim (USPN 6,449,921).

Regarding claims 22 and 23, Siegel et al. discloses a method and system for filling containers with tablets, comprising a tablet dispensing station 80 including a plurality of tablet type automatic dispensers 82, 84, 86 each having a common magazine. Siegel et al. discloses a variety of automatic dispensers to be oriented in a stationary magazine, such that each dispenser contains a respective type of tablet to be dispensed to a common accumulation section. Kim teaches a method and system for filling containers with tablets, the system comprising: a reception means 51; a tablet dispensing station including at least one automatic dispensers 44 of a plurality of types of tablets having a common magazine 16 with replaceable buffer containers 52, and a rotary dispenser 14; allocation means 12 designed for determining from the data entered in the reception means 51 the number of tablets of the respective types of tables to be

allocated to a respective tablet container 68; tablet container closing means 76. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify the method and system of Siegel et al. to include a rotary dispenser, since 1 lines 33-49 of Kim states that such a modification is space efficient and improves tablet supply performance.

Response to Arguments

6. Applicant's arguments filed December 10, 2009 have been fully considered but they are not persuasive.
7. Applicant has argued that Siegel et al. fails to disclose the step of a plausible check of the prescription resulting in a rejection of a patient order. Column 1, lines 45-47 of Siegel et al. states that the disclosed automated process is executed in "a managed care facility", wherein patient specific dosages are found to be inherently checked for proper dosages prior to prescription. The fact that the dosages received during the automated process are "specific" to a patient assures that factors such as incompatibility of the particular dosages are considered.

Furthermore, prior art such as Williams et al. (USPN 6,006,946) support such an assessment of managed automated tablet filling methods including a plausible check of prescription data (column 4 lines 4-7).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to GLORIA R. WEEKS whose telephone number is (571)272-4473. The examiner can normally be reached on M-Th 8am-6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit: 3721

Other helpful telephone numbers are listed for applicant's benefit:

- Allowed Files & Publication (888) 786-0101
- Assignment Branch (800) 972-6382
- Certificates of Correction (703) 305-8309
- Fee Questions (571) 272-6400
- Inventor Assistance Center (800) PTO-9199
- Petitions/special Programs (571) 272-3282
- Information Help line 1-800-786-9199

/Gloria R. Weeks/
Examiner, Art Unit 3721

/Rinaldi I Rada/
Supervisory Patent Examiner, Art Unit
3721

March 2, 2010